

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

In Re:)	Chapter 11
)	
FLEMING COMPANIES,)	Case No. 03-10945 (MFW)
)	
Debtors.)	(Jointly Administered)
)	
<hr/> KRAFT FOODS GLOBAL INC.,)	
)	
Appellant,)	Civil Case No. 1:05-cv-00832 (SLR)
)	
v.)	
)	
POST-CONFIRMATION TRUST,)	
)	
Appellee,)	
)	
<hr/> FOOD MARKETING GROUP, INC.,)	
)	
Appellant,)	Civil Case No. 1:05-cv-00833 (SLR)
)	
v.)	
)	
POST-CONFIRMATION TRUST,)	
)	
Appellee,)	
)	
<hr/> KEMPS LLC,)	
)	
Appellant,)	Civil Case No. 1:05-cv-00834 (SLR)
)	
v.)	
)	
POST-CONFIRMATION TRUST,)	
)	
Appellee,)	
<hr/>)	

DEAN FOODS COMPANY ,)	
)	
Appellant,)	Civil Case No. 1:05-cv-00835 (SLR)
)	
v.)	
)	
POST-CONFIRMATION TRUST,)	
)	
Appellee,)	
_____)	

**APPELLANTS' AND APPELLEE'S JOINT MOTION FOR ORDER AUTHORIZING
MR. EARL F. HALE, JR. TO SERVE AS MEDIATOR**

Appellants Kraft Foods Global, Inc. ("Kraft"), Food Marketing Group, Inc. ("FMG"), Kemps LLC and Dean Foods Company (the "Vendors") and Appellee the Post-Confirmation Trust (the "PCT") respectfully move (the "Motion") the Court for entry of an order authorizing Mr. Earl F. Hale, Jr. ("Mr. Hale") to serve as mediator in the mediations required pursuant to this Court's Standing Rule Regarding Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court of this District (the "Mediation Order"). In further support of this Motion, the parties respectfully state as follows:

1. These are related appeals from the same order of the Delaware Bankruptcy Court. The appeals filed by Kraft and FMG have been jointly consolidated by order of this Court. To date, the other appeals, though relating to the same order and issues, have not yet been consolidated with the Kraft and FMG appeals. The appeals concern the above Debtors' Plan of Reorganization (the "Plan"). The Plan created two post-confirmation entities that succeeded the Debtors' rights and liabilities. The issue in the appeals is whether the Plan assigned certain claims of the Debtors' estates to the Appellee in this matter, the PCT, or to a different post-confirmation entity called the Reclamation Creditors Trust (the "RCT").

2. As parties to these related appeals, the Vendors and the PCT wish to conduct a mediation, as required pursuant to the Mediation Order, in an attempt to resolve their dispute before proceeding further with the appeal.

3. In addition to this appeal, however, there is a litigation pending in the Eastern District of Texas between the PCT and certain present and former employees of the Vendors (the "Vendor Employees") and against vendors that were not reclamation creditors of the Debtors and their employees (collectively, the "Non-Reclamation Vendors/Employees"). All the parties to this appeal - the Vendors and the PCT - believe that for any mediation of the Delaware appeal to be successful, the parties must also attempt to resolve the PCT's claims against the Vendor Employees pending in the Eastern District of Texas. The PCT also believes that the Non-Reclamation Vendors/Employees should fully participate in the mediation. The Vendors and Vendor Employees do not oppose having the Non-Reclamation Vendors/Employees join in the mediation process.

4. Issues of Texas law and the underlying liability of the Vendor Employees, if any, are likely to be more germane to reaching a settlement than the legal issue pending on appeal in this Court. The parties have agreed that their mediation would be most effective, and stand the best chance of success, if it was conducted before a professional Texas mediator. Likewise, the parties to this appeal agree that the Vendor Employees should be joined in their mediation, and the Vendor Employees have consented to such a mediation. Finally, the Non-Reclamation Vendor/Employees have been invited and have agreed to participate in the mediation.

5. The parties therefore jointly request that they be permitted to satisfy the mandatory mediation requirement under the Mediation Order by conducting a full day mediation on or

about March 2, 2006, before Mr. Hale, who is a respected Texas mediator based in Dallas, Texas. This mediation, by agreement, shall include the Vendor Employees and the Non-Reclamation Vendors/Employees, as well as the parties to this appeal. Mr. Hale's resume is attached to this motion as Exhibit A, as is the letter from Mr. Hale confirming his fees, procedures and agreement to serve as a mediator in this matter.

6. Wherefore, the parties respectfully request an order authorizing Mr. Hale to serve as a mediator in this matter.

Date: February 8, 2006

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